

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2182 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SAJJANSINH B SOLANKI

Versus

DISTRICT PANCHAYAT SERVICE SELECTION COMMITTEE

Appearance:

MR BN PATEL for Petitioner
MR JN BAROT for Respondent No.1 & 2
MR JV JAPPEE for Respondent No. 3 TO 19

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/04/1999

ORAL JUDGEMENT

#. Challenge has been made by petitioner by this Special Civil Application to the selection made by respondent No.1 on the posts of Driver. Select list has been prepared on 4.3.97 which is on the record of this Special Civil Application as annexure-C. The petitioner prayed for quashing and setting aside of the said select list in

this Special Civil Application.

#. It is not in dispute that in response to the applications invited by respondent No.1 for the post of Driver vide its advertisement dated 7.2.96, the petitioner applied for the said post. He was called for interview and he appeared before the selection committee. However, it is a different matter that he was not selected, i.e. his name was not there in the select list. Hence this special civil application before this Court.

#. The learned counsel for the petitioner raised threefold contentions in this special civil application. Firstly, it is contended that the driving test of the candidates have been taken by incompetent persons. Second contention has been raised that the selection which has been made only on the basis of oral interview is arbitrary. Third and last contention has been made that 100 marks which have been prescribed for interview have been divided amongst three members, but necessary heads were not fixed to allot the numbers thereunder. So it is wholly an arbitrary selection.

#. The learned counsel for the respondents contended that the petitioner has taken a chance of his selection before the selection Board and when the Board has not found him meritorious, he has challenged this selection. In the matter of selection to the post by selection committee, this Court may not lightly interfere with it.

#. I have given my thoughtful considerations to the submissions made by learned counsel for the parties.

#. For seventeen posts of Drivers, as many as 1153 applications were received. Looking to this number of applications received, the respondents No.1 and 2 had to shortlist the applications and accordingly they had shortlisted them but still 326 applications were taken to be valid applications and 326 candidates were called for driving test and interview. The learned counsel for the petitioner does not dispute that the petitioner appeared for his driving test and in the interview. The learned counsel for the petitioner also does not dispute that the petitioner has not raised any protest that the persons who have been entrusted with the work of taking driving test of the petitioner are not qualified persons. Similarly, before entering for the interview, he has also not raised any objection.

#. I find sufficient merits in the contention of the

learned counsel for the respondents that the petitioner had taken a chance for his selection for the post of Driver and when the result went against him, he has challenged this selection. In the matter of selection made by expert persons, the power of judicial review of this Court is very very limited and the reason is obvious; in such selection, number of candidates is much more than the posts to be filled in. In this case, as stated earlier, 326 candidates were called for interview and naturally more than 300 candidates could not have found place in the select list and get appointments. So as against 17 candidates who have been selected, there are 309 persons who can make all sort of grievances, hue and cry and allegations. The learned counsel for the petitioner has failed to make out any case of malafides of the members of the selection committee in making this selection. The learned counsel for the petitioner, on being asked by the Court, has failed to give out as to what qualifications have to be prescribed for a person who has to take driving test of the candidates. It is not the case of the petitioner that the person who has taken the driving test of the petitioner was not knowing the driving of the vehicle. How he is lacking qualification or how he was incompetent, has not been made out by the petitioner. Only on such allegations, more so, when there is no case of malafides, the selection cannot be lightly interfered with. The person who has taken driving test was not a technical person itself may not be a ground to quash the selection where it is not in dispute that he knows driving well.

#. The selection on the post are permissible only on oral interviews. It is the case of petitioner for the selection on the post of driver and for which the driving test is one of the important thing and then interview has been held to assess competence and find out the best of the lot. It is not in dispute that selection committee consisted of three persons and 100 numbers have been equally distributed amongst three persons. The Chairman has been allotted 34 numbers whereas two other members have been allotted 33 numbers each. So it is the equal distribution of numbers. The petitioner has failed to make out any case of malafide against any of the member of the selection committee and when the equal numbers have been given to each members, there cannot be doubt about their bonafides. There is a presumption that the selection committee has acted fairly, reasonably and impartially unless contrary is proved and which precisely has not been done by the petitioner. The case that the numbers are to be divided under which head has also not been made out by the petitioner. These are the post of

drivers and for which that much of strictness as provides for the higher post and to be adhered to by the selection committee is not necessary. This writ petition is wholly misconceived and the same is dismissed. Rule discharged. No order as to costs.

(S.K.Keshote, J.)

[sunil]